IMT Nuremberg Archives

H – 1077

International Court of Justice

H1077-0002

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

29 July, 1946.

(THE COMMISSION CONVENED AT 1410 HOURS.)

COMMISSIONER:

M. Rasamov.

THE REICHS CABINET.

DR. FRANZ SCHLEGELBERGER, a witness, took the stand and testified as follows:

COMMISSIONER RASAMOV: Raise your right hand and repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

COMMISSIONER RASAMOV: You may be seated.

Defense counsel, before you examine the witness please tell me the object of your examination, also what you intend the witness to bring out in this questioning.

DR. KUBUSCHOK: The witness was state secretary in the Ministery of Justice and at times was a representative of the Minister of Justice. He participated partly in the cabinet meetings and he knows the activities of the Reichs Cabinet. He knows the mechanism of the laws and knows the attitude of the cabinet members. That is essentially what I want to ask of this witness.

H1077 - 0003

COMMISSIONER RASAMOV: Very well.

BY DR. KUBUSCHOK:

Q Please give me your activity and your rank from 1930 on.

A In 1931 I was the state secretary in the Ministry of Justice. I had the same position in the Cabinet Papen and then the Cabinet Hitler.

Q How long did you remain in the Cabinet Hitler?

A Until August, 1942.

Q Why did you leave the Cabinet?

A The reason was because of the rescinding of the independant positions of the judges.

Q What were the facts in connection with the abolition of the independance of the judges?

A There was one individual case about which Hitler believed that the sentence was too lenient. On April 24, 1942, he asked the Reichstag to give him the competance to remove judges from their office without any rights to pension.

Q Were you a member of the party?

A In 1933, I refused to join the party. In 1938 I received a letter in which the Fuehrer ordered my adherence to the party without any previous hearing on my part.

COMMISSIONER RASAMOV: What paper do you have in your hand now?

THE WITNESS: The order of the Fuehrer.

BY DR. KUBUSCHOK:

Q You never made an application to join the party?

A No.

Q In 1933 the Hitler government was formed. How did the Minister of

H1077-0004

Justice, Guertner, join the cabinet?

A Reichs Minister of Justice Guertner had already been Reichs Minister in the Papen cabinet and Hitler asked him to remain in office.

Q Were there any previous negotiations with Hitler, which could have constituted the basis of this entrance into the cabinet?

A I don't know of any.

Q Were there any political connections between Hitler and Guertner?

A I do not think so, but possibly Hitler knew Guertner, because he was minister of justice in Bavaria.

Q Could you tell me something about the Government and the activities during the first period of the Hitler Government? By the first period, I mean the second half of 1933 and first half of 1934.

A I only participated in one cabinet meeting in 1933. Hitler asked me if it was possible to pronounce a death sentence or a high imprisonment sentence for abusing the SA uniform.

COMMISSIONER RASAMOV: Do you mean to say that you were only present once at the Reich Cabinet meetings?

THE WITNESS: I cannot remember that I participated in any other meetings.

COLONEL RASAMOV: So you went only once?

THE WITNESS: Yes. My answer to the Fuehrer was that there was no law existing as he imagined. The Fuehrer was very upset when I told him and he made violent reprimands against me. He then ordered the drafting of a law, in which lenient sentences were threatened. I then told the Fuehrer there was no basis whatever for his reproaches against me. He then shook my hand and told me, "You are right."

H1077 - 0005

Q What did you and Guertner think about the conditions under which the cabinet was working?

A Guertner often complained that there was no cohersion between the party and the minister.

Q Were there any differences of opinion between these two groups, which were manifested during the cabinet meetings?

A I supposed so, according to the information which I received from Guertner.

Q How did you think the Governmental activities took place during the first period? Was it only the opinion of Hitler, which prevailed in an autocratic way, or were there real negotiations between all the ministers?

A As far as I know from one sitting in which I participated and from the information I received from Guertner, there was a matter of fact orderly negotiation between all the ministers, during which everyone could express their own opinion in regard to the drafting of new laws.

Q Witness, will you describe according to the legal field the actual circumstances of how the center of gravity was focused around Hitler?

A The whole basis of this concentration of power on Hitler, or the so-called Angleichungs Gazettes, which were issued in 1933. This law, which was issued on the grounds of a valid majority gave competence to the Government to issue new laws and to modify the constitution. The next step was to pronounce the prohibition of several parties. There was no longer several parties in Germany, but only one, the National Socialist Party. It was said that after the issuing of this law the Government was merely an executive communicative party. This is not correct. Within the Government, the ministers who did not belong to the party, or were not members of the party, represented that

H1077 - 0006

point of view against the party. In 1934 the offices of the Reichs Chancellor and the Reichs President were merged into each other and this law was approved by a ~~plebiscite~~ plebiscite. In 1936, the four year plan was issued. In 1938, the general plan of potentiary for public economy was adopted. Then the general plan of potentiary for the administration and the high command of the armed forces took place in 1939. With the beginning of the war, all the forces were more and more concentrated. Councils of ministers for the defense of the Reich were appointed and in this only a few ministers participated. Already in 1937 and in 1938 the dictatorship of Hitler had become a clear tyranny. By virtue of the Reichstag decree of April 26, 1942, all the competences of the Fuehrer were coordinated.

Q Did the negotiations within the Reichs Government from 1934 onward pertain to general political questions or were they only minor questions belonging to the different ministers, which were discussed in the Reichstag?

A Hitler always preferred to talk only with several ministers rather than the whole cabinet. For example, he always endeavored to exclude the Minister of Justice from the several meetings. He once told me,"I know justice as a defendant, that is enough for me." That is why I believe the essential political questions were not discussed in the cabinet meetings , as Hitler was of the opinion that the audience was too big in these meetings.

Q From which time was the procedure of the cabinet meetings replaced by the so-called ~~Umlaufsverfahren~~ "Umlaufsverfahren"?

A The last cabinet meeting in which matters were discussed took place in 1937. In 1938, there were no more cabinet meetings, during which Hitler was informed about certain things. That is why from 1937 onward all draft laws had to be settled by the Umlaufsverfahren.

H1077-0007

Com. B.
Take 2-Pg. 6.
Meehan
29 July
Schlegelberger.

Q Before making any political decisions of great importance, did Hitler inform his ministers?

A I must answer "no." There are quite a number of examples where the ministers learned about these important decisions only from the press or radio.

Q Can you quote an example?

A For example, the Minister of Justice learned about the Nurnberg decree only afterward and the same goes for the invasion of Austria.

Q Maybe you know of another event of foreign policy?

A I can only way in response to that question that the minister with whom I was connected, namely Guetner, learned about the war only after it had started.

Q Did Minister Guetner agree with the general line of Hitler's policies?

A Guetner saw great danger in Hitler's policies, but he was of the opinion that because of the desperate situation of Germany at the time, one had to reestablish better conditions through Hitler's policies.

Q What did he do in his special field of endeavor, with the view of re-establishing legal conditions and correcting the policies?

A Immediately after the Nazis seized power, he appointed two state attorneys in order to examine and the uses of the newly seized power. This order was actually carried out and all cases which proved to contain any responsibility before the German criminal law were as a matter of fact dealt with. There was only one limit, the right of the Fuehrer to cancel the case.

H1077-0008

May I remark here that the party gradually more and more tried to conquer justice within the state. That is what Guertner fought. He saw to it that the whole system of justice within the Reich came into the hands of the Minister of Justice, who was the only minister who was not a National Socialist. He furthermore saw to it that judges could not be influenced in cases. Cases appeared very frequently where the Fuehrer was very interested and he saw to it that the district attorney cooperated. This afforded an opportunity to pass on all these influences to the district attorney. The Minister of Justice ordered that the Gauleiter could not appear in trials in order to influence the judge by making a speech. He had a terrible struggle against the Black Corps newspaper, which lived on accusing judges. There were special difficulties if the police arrested people who had been acquited by tribunals. This is why the Minister of Justice agains and again admonished Hitler. When I left my office I discussed that point at large with Hitler and he then admittdd I was right.

Q You said that the Minister of Justice saw to it that all complaints which were received by the competent authority were actually dealt with. Does that go too for excesses in concentration camps?

A Yes, this goes for these cases too, but only up to the moment when these cases came under the jurisdiction of the SS.

Q When was that?

A In 1939.

Q What was Hitler's answer to applications for resignations, which were handed to him by the ministers?

H1077 - 0009

A He refused them violently.

Q Was Hitler in the habit of discussing points, which pertained only to the field of activity of one minister, with only that minister and with-holding this information from the others?

A Hitler had the principle that no one must know or learn more than is necessary for the carrying out of his task.

Q Thank you, no further questbons.

CROSS EXAMINATION.

COLONEL RASAMOV: Witness, what were the exact reasons that you refused to join the party?

THE WITNESS: I never was a member of any party. I was of the opinion that it was better for higher officials of justice not to join any party.

BY DR. KEMPNER:

Q Have you, durfng you activities as deputy minister, drafted many laws?

A I was in that office from January, 1941 to August of 1942 and I cannot remember that I prepared many laws?

Q Decree neither?

A I certainly have signed decrees.

Q How many appeared in the Reichs Gazette book? Five, fifty or how many?

A I believe 12 to 15.

Q I shall tell you how many. There were 50, 60 or maybe 70. You introduced police and SS jurisdiction in the occupied territory. Is that correct?

A Maybe.

H1077 - 0010

Q You introduced the Nunrberg race decrees in the occupied territories ofthe East?

A This is possible.

Q Together with other deputy members with Mr. Bormann?

A If you will tell me so, all will be right.

Q The Reich Corporation of 1941, page 297, so there was a corporation within the Reich Cabinet?

A I cooperated with some of them, of course.

Q You did not conceal that from the other members of the cabinet, did you?

A It can't be concealed,it has been published.

Q Very well, so there was a ~~xxxxxxxx~~ corporation of the members of the several ministers?

A There was a corporation of the ministers who were competent for the specific case.

Q So sometimes it was all of them and sometimes only five and sometimes only three?

A Yes, it probably was like this.

Q It probably was like this or it was like this?

A I can only say it probably was like this. If you tell me so, Dr. Kempner, I will suppose it is correct.

Q In 1941 the criminal law became more severe. How many members of the cabinet cooperated in such a measure?

A I cannot tell in a general way, it depends on the subject matter.

9

H1077-0011

Q In such a case what do you think, laws for the modification of the criminal law of the Reich from September 4, 1941?

A Four or five I suppose.

Q The following order are quoted here as representations of the cabinet and I now ask you whether these orders were signed by each of you, Hitler, Goering, Schlegelberger, Fuchs and Warlimont?

A Certainly, if it is quoted in here it has been signed by these gentlemen.

Q So there was a strong activity of the Reich cabinet, was there?

A According to my opinion, not the Reich Cabinet but by the ministers.

Q And the Reich cabinet was composed of the ministers, wasn't it, yes or no?

A The cabinet was composed of the ministers.

Q The whole legislation was made by circulars?

A Yes

Q How many circulars were there?

A I can't deny that.

M. RASUMOV: How many circulars were there?

MR. KEMPNER: Not how many, the question was did the letter circulate to each minister.

BY DR. KEMPNER:

Q How many cases of legislation do you know in which

H1077 - 0012

the drafted laws were handed over ~~xx~~ from one minister to another.

A I cannot state any exact number.

Q If I tell you that the file number of the Reich Chancellory exceeds 3900, what would you say?

A I would only say that if that is the number there was only a small percentage of ~~xxxx~~ which I had knowledge.

Q But the ministers read about it even if you didn't read it personally?

A The ministers certainly read it. We came into the possession of the law by circulars.

Q So it was stated in this document under all of the members of the government, you know that?

A Yes, but the documents are only signed by these gentlemen who participated in it and the others were only informed about it.

Q So, they were informed and it was not concealed from them?

A I never claimed that they were concealed.

Q Sure. When did you come to the opinion that Hitler was a dictator and the whole thing had become a tyrannus?

A I came to that conviction approximately in 1939.

Q Before you had signed all of these laws you saw?

A Yes.

H1077-0013

Q And if as minister of justice you learned about something criminal which had happened, you interfered, didn't you?

A Yes.

Q Now on the 30th of June, 1934, my friend, Claussner was killed, together with many other people, did you know that?

A Yes.

Q And two days later Hitler, ~~xxxhx~~ and others signed a law which stated that these had been legal acts?

A May I make a remark in this respect?

Q Tell me first whether this was the case or not?

A Yes, that is correct. May I speak now? I know of the events which lead to the issuing of the Roehm decree only by hearsay. I was not there at the time. I did not witness these events. I know that Gertner did not yet know about the case Claussner.

Q And when he learned about it, what happened then?

A The competent officer who handled that case told me the following: Hitler first told them that the Roehm affair was only the revolt of a small clan of homo-sexual SA men.

Q There is no need for details. I want to know the following: During the period from 1939 until 1942, you received letters from the Bishop of Limburg and from other Bishops, which state that the inmates of asylums

H1077 - 0014

had been murdered and that it was murder in accordance with the German criminal law, paragraph 211, was any statement made in that respect?

A I cannot answer by yes or no. May I answer by a sentence? I do not know anything about conditions until 1941. I cannot remember that I received such letters after 1941. May I add that whenever I learned about it I saw ~~it~~ to it that the men were at once dealt with and I asked the Fuehrer to issue a law in this respect in order to assume the whole responsibility before the world but the Fuehrer refused.

Q Is murder reduced to something less important when it is legalized by war?

A Of course not.

Q The last question: You told us that the ministers had no possibility of resigning. You know very well that Ernst Von Ruebenth did it?

A I do not think the answer can be yes or no.

Q Yet the Fuehrer accepted his regignation?

A Yes.

Q Did Ernst Von Ruebenth want to accept the golden party insignia, yes or no?

A Yes, but with one condition.

Q Did Hitler accept that condition?

A No.

Q And Ernst Von Ruebenth showed he was too~~x~~ proud to receive it and he resigned?

A Yes.

H1077 - 0015

Q Were other members of the cabinet as courageous as he? Yes or no?

A The condition which Von Ruebenth made was in favor of the Catholic Church.

Q And the other members agreed to everything? They had no conditions?

A I do not know.

Q Otherwise, they would not have remained in office?

A I suppose so.

MR. RASUMOV: If nobody else has any questions we have finished with this witness and he may be excused.

(The Commission adjourned at 1530 hours)

The foregoing is a true and correct transcript of the testimony of DR. FRANZ SCHLEGELBERGER, taken on 29 July 1946.

Reporter (pp 1-8

Reporter (pp 9-14

CERTIFIED TO :

Commissioner

15.

H1077 - 0016

H1077 - 0017

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDERS OF THE TRIBUNAL DATED 13 MARCH 1946.

29 July 1946

(THE COMMISSION CONVENED AT 1410 HOURS)

COMMISSIONER:

M. Rasumov.

THE REICHS CABINET

DR. FRANZ SCHLEGELBERGER, a witness, took the stand and testified as follows:

COMMISSIONER RASUMOV: Raise your right hand and repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath).

COMMISSIONER RASUMOV: You may be seated.

Defense Counsel, before you examine the witness please tell me the object of your examination, also what you intend the witness to bring out in this questioning.

DR. KUBUSCHOK: The witness was state secretary in the Ministry of Justice and at times was a representative of the Minister of Justice. He participated partly in the cabinet meetings and he knows the activities of theReichs Cabinet. He knows the mechanism of the laws and knows the attitude of the cabinet members. That is essentially what I want to ask of this witness.

COMMISSIONER RASUMOV: Very well.

BY DR. KUBUSCHOK:

Q Please give your activity and your rank from 1930 on.

A In 1931 I was the state secretary in the Ministry of Justice. I had the same position in the Cabinet Papen and then the Cabinet Hitler.

Q How long did you remain in the Cabinet Hitler?

A Until August, 1942.

H1077-0018

Q Why did you leave the Cabinet?

A The reason was because of the rescinding of the independent positions of the judges.

Q What were the facts in connection with the abolition of the independence of the judges?

A There was one individual case about which Hitler believed that the sentence was too lenient. On April 24, 1942, he asked the Reichstag to give him the competence to remove judges from their office without any rights to pension.

Q Were you a member of the Party?

A In 1933, I refused to join the party. In 1938 I received a letter in which the Fuehrer ordered my adherence to the party without any previous hearing on my part.

COMMISSIONER RASAMOV: What paper do you have in your hand now?

THE WITNESS: The order of the Fuehrer.

BY DR. KUBUSCHOK:

Q You never made an application to join the party?

A No.

Q In 1933 the Hitler government was formed. How did the Minister of Justice, Guertner, join the cabinet?

A Reichs Minister of Justice Guertner had already been Reichs Minister in the Papen Cabinet and Hitler asked him to remain in office.

Q Were there any previous negotiations with Hitler, which could have constituted the basis of this entrance into the cabinet?

A I don't know of any.

Q Were there any political connections between Hitler and Guertner?

A I do not think so, but possibly Hitler knew Guertner, because he was minister of justice in Bavaria.

Q Could you tell me something about the Government and the activities during the first period of the Hitler Government? By the first period, I mean the second half of 1933 and the first half of 1934.

A I only participated in one cabinet meeting in 1933. Hitler asked me if it was possible to pronounce a death sentence or a high imprisonment sentence for abusing the SA uniforms.

H1077 - 0019

COMMISSIONER RASAMOV: Do you mean to say that you were only present once at the Reich Cabinet meetings?

THE WITNESS: I cannot remember that I participated in any other meetings.

COLONEL RASAMOV: So you went only once?

THE WITNESS: Yes. My answer to the Fuehrer was that there was no law existing as he imagined. The Fuehrer was very upset when I told him and he made violent reprimands against me. He then ordered the drafting of a law, in which lenient sentences were threatened. I then told the Fuehrer there was no basis whatever for his reproaches against me. He then shook my hand and told me, "You are right."

Q What did you and Guertner think about the conditions under which the cabinet was working?

A Guertner often complained that there was no cohersion between the party and the minister.

Q Were there any differences of opinion between these two groups, which were manifested during the cabinet meetings?

A I supposed so, according to the information which I received from Guertner.

Q How did you think the Governmental activities took place during the first period? Was it only the opinion of Hitler, which prevailed in an autocratic way, or were there real negotiations between all the ministers?

A As far as I know from one sitting in which I participated and from the information I received from Guertner, there was a matter of fact orderly negotiation between all the ministers, during which everyone could express their own opinion in regard to the drafting of new laws.

Q Witness, will you describe according to the legal field the actual circumstances of how the center of gravity was focused around Hitler?

A The whole basis of this concentration of power on Hitler, or the so-called Angleichungs Gazettes, which were issued in 1933. This law, which was issued on the grounds of a valid majority gave competence to the Government to issue new laws and to modify the constitution. The next step was to pronounce the prohibition of several parties. There was no longer several parties in Germany, but only one, the National Socialist Party. It

was said that after the issuing of this law, the Government was merely an executive communicative party. This is not correct. Within the Government, the ministers who did not belong to the party, or were not members of the party, represented that point of view against the party. In 1934 the offices of the Reichs Chancellor and the Reichs President were merged into each other and this law was approved by a plebiscite. In 1936, the four year plan was issued. In 1938, the general plan of potentiary for public economy was adopted. Then the general plan of potentiary for the administration and the high command of the armed forces took place in 1939. With the beginning of the war, all the forces were more and more concentrated. Councils of ministers for the defense of the Reich were appointed and in this only a few ministers participated. Already in 1937 and in 1938 the dictatorship of Hitler had become a clear tyranny. By virtue of the Reichstag decree of April 26, 1942, all the competence of the Fuehrer were coordinated.

Q Did the negotiations within the Reichs Government from 1934 onward pertain to general political questions or were they only minor questions belonging to the different ministers, which were discussed in the Reichstag?

A Hitler always preferred to talk only with several ministers rather than the whole cabinet. For example, he always endeavored to exclude the Minister of Justice, from the several meetings. He once told me, "I know justice as a defendant, that is enough for me." That is why I believe the essential political questions were not discussed in the cabinet meetings, as Hitler was of the opinion that theaudience was too big in these meetings.

Q From which time was the procedure of the cabinet meetings replaced by the so-called "Umlaufsverfahren"?

A The last cabinet meeting in which matters were discussed took place in 1937. In 1938, there wereno more cabinet meetings, during which Hitler was informed about certain things. That is why from 1937 onward all draft laws had to be settled by the Umlaufsverfahren.

H1077 – 0020

Q. Before making any political decisions of great importance, did Hitler inform his ministers ?

A. I must answer "no". There are quite a number of examples where the ministers learned about these important decisions only from the press or rad

Q. Can you quote an example ?

A. For example, the Minister of Justice learned about the Nurnberg decree only afterward and the same goes for the invasion of Austria.

Q. Maybe you know of another event of foreign policy ?

A. I can only way in response to that question that the minister with whom I was connected, namely Guetner, learned about the war only after it had started .

Q. Did Minister Guetner agree with the general line of Hitler's policies?

A. Guetner saw great danger in Hitler's policies, but he was of the opinion that because of the desperate situation of Germany, at the time, one had to reestablish better conditions through Hitler's policies.

Q. What did he do in his special field of endeavor, with the view of re-establishing legal conditions and correcting the policies ?

A. Immediately after the Nazi seized power, he appointed two state attorneys in order to examine and the uses of the newly seized power. This order was actually carried out and all cases which proved to contain any responsibility before the German criminal law were as a matter of fact dealt with. There was only oneli it, the right of the Fuehrer to cancel the case. May I remark here that the party gradually more and more tried to conquer justice within the state. That is what Guertner fought. He saw to it that the whole system of justice within the Reich came into the hands of the Minister of Justice who was the only minister who was not a National Socialist. He furthermore saw to it that judges could not be influenced in cases. Cases appeared very frequently where the Fuherer was very interested and he saw to it that the district attorney cooperated. This afforded an opportunity to pass on all these influences to the district attorney. The Minister of Justice ordered that the Gauleiter could not appear in trials in order to influence the judge by making a speech.

H1077 - 0021

H1077 - 0022

He had a terrible struggle against the Black Corps newspaper, which lived on accusing judges. There were special difficulties if the police arrested people who had been acquited by tribunals. This is why the Minister of Justice again and again admonished Hitler. When I left my office I discussed that point at large with Hitler and he then admitted I was right.

Q. You said that the Minister of Justice saw to it that all complaints which were received by the competent authority were actually dealt with. Does that go too for excesses in concentration camps ?

A. Yes, this goes for these cases too, but only up to the moment when these cases came under the jurisdiction of the SS ?

Q. When was that ?

A. In 1939.

Q. What was Hitler's answer to applications for resignations, which were handed to him by the mi isters ?

A. He refused them violently.

Q. Was Hitler in the habit of discussing points, which pertained only to the field of activity of one minister, with only that minister and withholding this information from the others ?

A. Hitler had the principle that no one must know or learn more than is necessary for the carrying out of his task.

Q. Thank you, no further questions.

CROSS EXAMINATION

COLONEL RASAMOV: Witness, what were the exact reasons that you refused to join the party ?

THE WITNESS: I never was a member of any party. I was of the opinion that it was better for higher officials of justice not to join any party.

BY DR. KEMPNER:

Q. Have you, during your activities as deputy minister, drafted many laws ?

A. I was in that office from January, 1941, to August of 1942 and I

H1077 - 0023

cannot remember that I prepared many laws ?

Q. Decree neither ?

A. I certainly have signed decrees.

Q. How many appeared in the Reichs Gazette bokk ? Five, fifty or how many ?

A. I believe 12 to 15.

Q. I shall tell you how many. There were, 50, 60 or maybe 70. You introduced police and SS jurisdiction in the occupied territory. Is that correct ?

A, Maybe.

H1077-0024

Q You introduced the Nurnberg race decrees in the occupied territories of the East?

A This is possible.

Q Together with other deputy members with Mr. Bormann?

A If you will tell me so, all will be right.

Q The Reich Corporation of 1941, page 297, so there was a corporation within the Reich Cabinet?

A I cooperated with some of them, of course.

Q You did not conceal that from the other members of the cabinet, did you?

A It can't be concealed, it has been published.

Q Very well, so there was a cooperation of the members of the several ministers?

A There was a corporation of the ministers who were competent for the specific case.

Q So sometimes it was all of them and sometimes only five and sometimes only three?

A Yes, itprobably was like this.

Q It probably was like this or it was like this?

A I can only say it probably was like this. If you tell me so, Dr. Kempner, I will suppose it is correct.

Q In 1941 the cri inal law became more severe. How many members of the cabinet cooperated in such a measure?

A I cannot tell in a general way, it depends on the subject matter.

Q In such a case what do you think laws for the modification of the criminal law of the Reich from September 4, 1941.

A Four or five I suppose.

Q The following order are quoted here as representations of the cabinet and I now ask you whether these orders were

H1077 - 0025

signed by each of you, Hitler, Goering, Schlegelberger, Fuchs and Warlimont?

A Certainly, if it is quoted in here it has been signed by these gentlemen.

Q So there was a strong activity of the Reich cabinet, was there?

A According to my opinion, not the Reich Cabinet but the ministers.

Q And the Reich cabinet was composed of the ministers, wasn't it, yes or no?

A The cabinet was composed of the ministers.

Q The whole legislation was made by circulars?

A Yes.

Q How many circulars were there?

A I can't deny that.

M. RASUMOV : How many circulars were there?

DR. KEMPNER : Not how many, the question was did the letter circulate to each minister.

BY DR. KEMPNER :

Q How many cases of legislation do you know in which the drafted laws were handed over from one minister to another.

A I cannot state any exact number.

Q If I tell you that the file number of the Reich Chancellory exceeds 3900, what would you say?

A I would only say that if that is the number there was only a small percentage of which I had knowledge.

Q But the ministers read about it even if you didn't read it personally?

A The ministers certainly read it. I came into the possession of the law by circulars.

H1077-0026

Q So it was stated in this document under all of the members of the government, you know that?

A Yes, but the documents are only signed by those gentlemen who participated in it and the others were only informed about it.

Q So, they were informed and it was not concealed from them?

A I never claimed that they were concealed.

Q Sure, When did you come to the opinion that Hitler was a dictator and the whole thing had become a tyrannus?

A I came to that conviction approximately in 1939.

Q Before you had signed all of these laws you saw?

A Yes.

Q And if as minister of justice you learned about something criminal which had happened, you interfered, didn't you?

A Yes.

Q Now on the 30th of June, 1934, my friend, Clausner was killed, together with many other people, did you know that?

A Yes.

Q And two days later Hitler, and others signed a law which stated that these had been legal acts?

A May I make a remark in this respect?

Q Tell me first whether this was the case or not?

A Yes, that is correct. May I speak now? I know of the events which lead to the issuing of the Roehm decree only by heresay. I was not there at the time. I did not witness these events. I know that Gertner did not yet know about the case Claussner.

Q And when he learned about it, what happened then?

H1077 - 0027

A. The competent officer who handled that case told me the following : Hitler first told them that the Roehm affair was only the revolt of a small clan of homo-sexual SA men.

Q. There is no need for details. I want to know the following : During the period from 1939 until 1942, you received letters from the Bishop of Limburg and from other Bishops, which state that the inmates of asylums

H1077 - 0028

had been murdered and that it was murder in accordance with the German criminal law, paragraph 211, was any statement made in that respect?

A I cannot answer yes or no. May I answer by a sentence? I do not know anything about conditions until 1941. I cannot remember that I received such letters after 1941. May I add that whenever I learned about it I saw to it that the men were at once dealt with and I asked the Fuehrer to issue a law in this respect in order to assume the whole responsibility before the world but the Fuehrer refused.

Q Is murder reduced to something less important when it is legalized by war?

A Of course not.

Q The last question: You told us that the ministers had no possibility of resigning. You know very well that Ernst von Ruebenth did it?

A I do not think the answer can be yes or no.

Q Yet the Fuehrer accepted his resignation?

A Yes.

Q Did Ernst von Ruebenth want to accept the golden party insignia, yes or no?

A Yes, but with one condition.

Q Did Hitler accept that condition?

A No.

Q And Ernst von Ruebenth showed he was too proud to receive it and he resigned?

A Yes.

Q Were other members of the cabinet as courageous as he? Yes or no?

A The condition which von Ruebenth made was in favor of the Catholic Church.

Q And the other members agreed to everything? They had no conditions?

A I do not know.

Q Otherwise, they would not have remained in office?

A I suppose so.

MR. RASUMOV: If nobody else has any questions we have finished with

H1077 - 0029

this witness and he may be excused.

(The Commission adjourned at 1530 hours.)

The foregoing is a true and correct transcript of the testimony of DR. FRANZ SCHIEGELBERGER, taken on 29 July 1946.

ALICE MEEHAN
Reporter

ROSE W. COOK
Reporter

CERTIFIED TO: I. RASUMOV
Commissioner